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REPLY TO: BUFFALO

April 29, 2025

Honorable Lawrence J. Vilardo
U.S. District Judge
Robert H. Jackson Courthouse
2 Niagara Square
Buffalo, NY 14202

Re: United States v. Payton Gendron, 22-CR-109-LJV

Dear Judge Vilardo:

This letter is in response to the Court's Text Order dated April 25, 2025, directing defense counsel to address whether an evidentiary hearing will be necessary on the defendant's Motion to Change Venue, ECF No. 308. We apologize for having missed that portion of the April 11, 2025, Text Order, directing counsel to "address whether, and if so why, an evidentiary hearing is necessary for Gendron's venue motion." ECF No. 322.

We anticipate that a hearing will be required to present our case in chief in support of the requested venue change, as well as to resolve any factual disputes that are ultimately raised by the government in their response to the Motion. The evidence in support of the venue change will include, for example, a demonstration of the extent to which publicity surrounding this case has saturated the local media markets and the prejudicial effect the amount and content of this adverse publicity has had on the potential jurors in this district. This presentation would also include the presentation of our survey data as well as evidence demonstrating the demographics of the district in support of the claim that minority jurors would be disproportionately excluded from jury service if the trial were held in this district.

Without the government's response, we cannot identify particular disputed issues of fact that might also need to be addressed at a hearing. By Text Order entered on March 11, 2025, the Court granted our informal request for an extension to file the motion on or before March 31, 2025. ECF No. 283. In contemporaneous email communications, the Court notified the parties that if the venue motion was filed on March 31, 2025, the response would be due on May 9, 2025, and replies would remain due on May 27, 2025. No Text Order was issued following our filing of the Motion on March 31, 2025. Then, at the status conference on April 10th, the Court proposed a schedule for additional briefing on the Venue Motion pursuant to which the defense would file a Complete Venue Motion by June 2, 2025, the government would file a response on July 21, 2025, and any reply would be due by August 11, 2025. These proposed dates were

included in the subsequent Text Order issued on April 11th. ECF No. 322.

In light of the additional briefing that will be submitted on this issue, we request the opportunity to comprehensively address our entitlement to an evidentiary hearing in our Complete Venue Motion.

Respectfully submitted,

/s/ Sonya A. Zoghlin
Assistant Federal Public Defender

/s/MaryBeth Covert
Senior Litigator, Federal Public Defender's Office

/s/Julie Brain
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cc: (all by CM/ECF)

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